



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0452; FRL-9175-01-R4]

Air Plan Approval; NC; Removal of Transportation Facilities Rules for Mecklenburg County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision to the Mecklenburg County portion of the North Carolina SIP, hereinafter referred to as the Mecklenburg Local Implementation Plan (LIP). The revision was submitted by the State of North Carolina, through the North Carolina Division of Air Quality (NCDAQ), on behalf of Mecklenburg County Air Quality via a letter dated April 24, 2020. The SIP revision seeks to remove transportation facilities rules from the Mecklenburg County Air Pollution Control Ordinance (MCAPCO) rules incorporated into the LIP. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2020-0452 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or

comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

North Carolina adopted transportation facilities rules at the state level on November 15, 1973, pursuant to a federal requirement that existed at that time at 40 CFR 51.18 to provide preconstruction permitting review of indirect sources.¹ These sources are known as indirect sources because they may indirectly increase emissions by causing increased motor vehicle traffic where they are built. North Carolina refers to indirect sources as complex sources. The State identifies transportation facilities in its definition of “complex sources” at North Carolina General Statute (N.C.G.S.) 143-213(22). This definition includes any facilities that “will induce or tend to induce” increased emissions from motor vehicles.²

¹ To satisfy EPA requirements pursuant to 40 CFR 51.18, SIPs were required to “set forth legally enforceable procedures which shall be adequate to enable the State or a local agency to determine whether the construction or modification of a facility, building, structure, or installation, or combination thereof, will . . . interfere with attainment or maintenance of a national standard either directly because of emissions from it, or indirectly, because of emission resulting from mobile source activities associated with it. . . . Such procedures shall include means by which the State or local agency responsible for final decision-making on an application for approval to construct or modify will prevent such construction or modification if it will . . . interfere with the attainment or maintenance of a national standard.” See 40 CFR 51.18(a), (b) (1973).

² N.C.G.S. 143-213(22) defines “complex sources” as “any facility which is or may be an air pollution source or which will induce or tend to induce development or activities which will or may be air pollution sources, and which shall include, but not be limited to, shopping centers; sports complexes; drive-in theaters; parking lots and garages; residential, commercial, industrial or institutional developments; amusement parks and recreation areas; highways; and any other facilities which will result in increased emissions from motor vehicles or stationary sources.”

North Carolina adopted these rules to address the national ambient air quality standards (NAAQS or standards). EPA approved North Carolina's transportation facilities rules and their subsequent amendments into the North Carolina regulatory portion of the SIP. *See* 41 FR 8964 (March 2, 1976); 51 FR 41501 (October 11, 1985); 61 FR 3584 (February 1, 1996); 62 FR 41277 (August 1, 1997); and 63 FR 72190 (December 31, 1998). Mecklenburg County adopted analog transportation facilities rules on February 1, 1976. EPA approved Mecklenburg County's transportation facilities rules into the LIP on May 2, 1991. *See* 56 FR 20140.

In 1974, EPA suspended the indirect source review program. In the 1977 CAA Amendments, Congress modified the CAA to allow states to include indirect source review regulations in their SIPs but prevented EPA from requiring them as a condition of SIP approval. *See* CAA section 110(a)(5)(A)(i).

In 2013, the North Carolina General Assembly enacted Session Law 2013-413 that sought to streamline the regulatory process and eliminate unnecessary regulations. NCDAQ recommended repealing the transportation facilities rules in 15A North Carolina Administrative Code (NCAC) 02D .0800 – *Complex Sources* and 02Q .0600 – *Transportation Facilities Procedures*, as outdated requirements that were not providing environmental benefits, and the State repealed these rules effective January 1, 2015. Additionally, NCDAQ stated that the transportation facilities rules served only an administrative function and that they constituted a regulatory burden on owners of transportation facilities who were required to obtain permits prior to construction.

On May 12, 2017, EPA approved a September 16, 2016, SIP revision submitted by NCDAQ that removed the State's transportation facilities rules from the North Carolina regulatory portion of the SIP. *See* 82 FR 22086. Subsequently, Mecklenburg County repealed its transportation facilities rules, resulting in the April 24, 2020, SIP revision subject to this proposed action. This proposed action proposes to approve the changes to the Mecklenburg LIP to remove Mecklenburg's transportation facilities rules because these rules are unnecessary and

to be consistent with the previous action that removed the State’s transportation facilities rules from the North Carolina regulatory portion of the SIP.

II. What Action is EPA Proposing to Take?

The April 24, 2020,³ SIP revision seeks to remove Mecklenburg’s transportation facilities rules from the Mecklenburg LIP. Specifically, this SIP revision requests EPA to remove the MCAPCO rules in Article 2.0000 – *Air Pollution Control Regulations and Procedures*, Section 2.0800 – *Transportation Facilities*,⁴ comprised of Rules 2.0801 – *Purpose and Scope*; 2.0802 – *Definitions*;⁵ 2.0803 – *Highway Projects*; and 2.0804 – *Airport Facilities*.^{6,7}

EPA removed the State’s transportation facilities rules from the North Carolina regulatory portion of the SIP on May 12, 2017. As a part of that action, EPA approved NCDAQ’s September 16, 2016, SIP revision containing a demonstration showing that the repeal of the State’s transportation facilities rules satisfied CAA section 110(l).⁸ Section 110(l) prohibits EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

North Carolina’s section 110(l) demonstration was a statewide analysis that included Mecklenburg County. The section 110(l) analysis associated with the removal of the State’s rules from the SIP is therefore relevant to the proposed removal of Mecklenburg’s rules from the LIP.

³ The submittal was received on June 19, 2020.

⁴ Section 2.0800 is titled “Complex Sources” in the MCAPCO, however, it was erroneously listed in the CFR table as “Transportation Facilities”. This document will continue to refer to the rule as “Transportation Facilities” as that is the title currently listed in the CFR.

⁵ Section 2.0802 was originally titled “Permits” in the MCAPCO, however, it was erroneously listed in the CFR table as “Definitions”. This document will continue to refer to the rule as “Definitions” as that is the title currently listed in the CFR.

⁶ The April 24, 2020, submittal contains changes to other Mecklenburg LIP-approved rules that are not addressed in this document. EPA will be acting on those rules in separate actions.

⁷ NCDAQ also asked EPA to remove Rules 2.0805 – *Parking Facilities* and 2.0806 – *Ambient Monitoring and Modeling Analysis*. EPA is not taking action to remove these two rules because they are not in the LIP.

⁸ The demonstration submitted by NCDAQ as a part of the action announced in 82 FR 22086 on May 12, 2017 (hereinafter “North Carolina 110(l) Demonstration”), is included in the docket for this proposed rulemaking.

III. What is EPA’s Analysis of the April 24, 2020, SIP Revision?

A. Affected Facilities

As mentioned above, North Carolina provided, and EPA approved, a statewide section 110(l) demonstration to demonstrate that removal of the State’s transportation facilities rules would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. *See* 82 FR 22086 (May 12, 2017). The State’s section 110(l) demonstration included information demonstrating that very few facilities would be affected by the repeal of the transportation facilities rules. From 2011-2015, both NCDAQ and Mecklenburg County issued, on average, approximately three transportation facility permits per year.⁹ Since 2015, a year in which Mecklenburg County reviewed approximately four transportation facility permit applications, it has not reviewed or issued any transportation facility permit applications.¹⁰ Of the few permits granted under the transportation facilities rules, none have required emissions controls.¹¹ Furthermore, as discussed below, Mecklenburg County is in attainment for all NAAQS with air quality values below the standards.

B. Evaluation of Relevant NAAQS Status for Motor Vehicle Emissions¹²

There are six NAAQS established to protect human health and the environment. These NAAQS are carbon monoxide (CO), lead, nitrogen dioxide (NO₂), ozone, particulate matter (PM) – including PM_{2.5}¹³ and PM₁₀,¹⁴ and sulfur dioxide (SO₂). Considering modern fuel types and the science and technology related to emissions from motor vehicles, EPA does not believe

⁹ *See* North Carolina 110(l) Demonstration.

¹⁰ *See* email from Leslie Rhodes, Mecklenburg County, to Lynorae Benjamin, EPA Region 4 (September 16, 2021), available in the docket for this proposed rulemaking.

¹¹ *See id.* and North Carolina 110(l) Demonstration. The transportation facilities rules are permitting requirements that do not expressly require emissions controls.

¹² All design values in this notice of proposed rulemaking are available on EPA’s website at <https://www.epa.gov/air-trends/air-quality-design-values#report>.

¹³ PM_{2.5} refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as “fine” particles.

¹⁴ PM₁₀ refers to particles with an aerodynamic diameter less than or equal to 10 micrometers, which includes PM_{2.5}.

that there would be any changes in emissions for lead¹⁵ from removing the transportation facilities rules from the Mecklenburg LIP. Furthermore, EPA does not believe that SO₂¹⁶ air quality would be threatened given the mandatory use of ultra-low sulfur (ULSD) diesel fuel. Therefore, this section is focused on evaluating air quality for CO, NO₂, ozone, and PM_{2.5}.¹⁷ North Carolina in its entirety is in attainment for all NAAQS.

1. CO NAAQS

EPA promulgated the CO NAAQS in 1971 and has retained the standards since its last review of the standards in 2011. The primary NAAQS for CO consist of: (1) an 8-hour standard of 9 parts per million (ppm), not to be exceeded more than once in a year (*i.e.*, the second highest, non-overlapping 8-hour average concentration cannot exceed the standard); and (2) a 1-hour average of 35 ppm, not to be exceeded more than once in a year.

In 1978, EPA designated Mecklenburg County as nonattainment for the CO NAAQS. Subsequently, under the CAA amendments of 1990, Mecklenburg County was designated as nonattainment with a “not classified” classification. As a result of the not classified designation,

¹⁵ On November 12, 2008, EPA promulgated a revised lead NAAQS of 0.15 micrograms per cubic meter (µg/m³). *See* 73 FR 66964. EPA designated the entire State of North Carolina, including Mecklenburg County, as unclassifiable/attainment for the 2008 lead NAAQS. *See* 76 FR 72097 (November 22, 2011). As of January 1, 1996, the sale of leaded fuel for use in on-road motor vehicles was banned. Therefore, removing the transportation facilities rule from the Mecklenburg LIP will not have any impact on ambient concentrations of lead.

¹⁶ On June 22, 2010, EPA revised the 1-hour SO₂ NAAQS to 75 parts per billion (ppb) which became effective on August 23, 2010. *See* 75 FR 35520. On February 25, 2019, based on a review of the full body of currently available scientific evidence and exposure/risk information, EPA retained the existing 2010 1-hour SO₂ primary NAAQS. *See* 84 FR 9866. SO₂ designations for the 2010 1-hour SO₂ NAAQS have been determined in four separate phases. EPA designated Mecklenburg County as attainment/unclassifiable on April 9, 2018. *See* 83 FR 1098. In 2006, EPA finalized regulations that began to phase in a requirement to use ULSD, a diesel fuel with a maximum of 15 ppm sulfur. Since 2010, EPA’s diesel standards have required that all highway diesel fuel vehicles use ULSD, and all highway diesel fuel supplied to the market is ULSD. Due to the requirements to use ULSD under the on-road diesel fuel standards, the amount of SO₂ emitted from on-road vehicles is already low, and removal of the transportation facilities rules from the Mecklenburg LIP will therefore not have any appreciable impact on ambient concentrations of SO₂.

¹⁷ On March 15, 1991, EPA completed initial designations for the PM₁₀ NAAQS. *See* 56 FR 11101. No area in North Carolina has ever been designated as nonattainment for the PM₁₀ standard. On-road vehicle emissions would include direct PM_{2.5} and precursor emissions for secondary formation of PM_{2.5}, which constitute the “fine” fraction of PM₁₀. The current primary and secondary PM₁₀ NAAQS are each set at 150 µg/m³ over a 24-hour average, not to be exceeded more than an average of once per year over a three-year period. The primary and secondary 24-hour PM_{2.5} NAAQS are more stringent, each set at a level of 35 µg/m³, determined by an average of the 98th percentile 24-hour average concentration over three years. Because the PM_{2.5} NAAQS are more stringent than the PM₁₀ NAAQS, and because the emissions from on-road vehicles which would utilize the transportation facilities would generally be PM_{2.5}, any impacts for particulate matter would be reflected of PM_{2.5} issues before issues associated with PM₁₀. Therefore, focusing on PM_{2.5} is appropriate for these purposes and would adequately address PM₁₀.

Mecklenburg County had five years (i.e., until November 15, 1995) to attain the CO NAAQS. North Carolina achieved this requirement, and on August 2, 1995, Mecklenburg County was redesignated to attainment.¹⁸ See 60 FR 39258. North Carolina has maintained the standard ever since and is still in compliance with the CO NAAQS. As mentioned above, for North Carolina's SIP revision requesting removal for the transportation facilities rule, EPA approved a section 110(l) demonstration. That action showed that Mecklenburg County had a regional 8-hour CO design value of 1.3 ppm, or 14 percent of the NAAQS in the 2014-2015.¹⁹ In the 2015-2016 period, Mecklenburg County had a regional 8-hour CO design value of 1.2 ppm, or 13 percent of the NAAQS.

The latest complete monitoring data is from 2019-2020 and shows that Mecklenburg County is still well below the 8-hour CO standard with a design value of 1.4 ppm.²⁰ The data demonstrates that Mecklenburg County continues to maintain an 8-hour CO design value well below the NAAQS.

Regarding the 1-hour CO NAAQS, Mecklenburg County had a regional 1-hour CO design value of 1.7 ppm, or 5 percent of the NAAQS, in 2014-2015. For the 2015-2016 period, Mecklenburg County had a regional 1-hour CO design value of 1.4 ppm, or 4 percent of the NAAQS. The latest complete monitoring data is from 2019-2020 and shows that Mecklenburg County is still well below the 1-hour CO standard with a design value of 1.5 ppm or 4 percent of the NAAQS. The data demonstrates that Mecklenburg County continues to maintain a 1-hour CO design value well below the NAAQS.

2. *NO₂ NAAQS*

¹⁸ In 2013, EPA approved the State's request to convert the second 10-year maintenance plan to a limited maintenance plan for the Charlotte, Raleigh/Durham, and Winston Salem CO maintenance areas ("Limited Maintenance Plan"). See 78 FR 37118 (June 20, 2013). The transportation facilities rules are not components of the Limited Maintenance Plan.

¹⁹ See Memorandum from William G. Laxton dated June 18, 1990, "Ozone and Carbon Monoxide Design Value Calculations"— "The design value is evaluated over a two-year period. Specifically, the design value is the higher of each year's annual second maximum, non-overlapping 8-hour average."

²⁰ The design value is evaluated over a two-year period. Specifically, the design value is the higher of each year's annual second maximum, non-overlapping 8-hour average. The design value listed for each area is the highest among monitors with valid design values.

In 1971, EPA set an annual standard for NO₂ at a level of 53 parts per billion (ppb) which has since remained unchanged. *See* 36 FR 8186 (April 30, 1971). On February 9, 2010, EPA established a 1-hour NO₂ standard set at 100 ppb. *See* 75 FR 6474.

EPA designated Mecklenburg County as unclassifiable/attainment for the 2010 1-hour NO₂ NAAQS on February 17, 2012. *See* 77 FR 9532. Further, EPA has never designated Mecklenburg County or any area in North Carolina as nonattainment for either NO₂ NAAQS. The 2020 regional design value for the 1971 annual standard for NO₂ is 9 ppb, well below the NAAQS. The 2018-2020 regional design value for the 2010 1-hour NO₂ standard is 35 ppb, also well below the NAAQS.

3. *Ozone NAAQS*

EPA promulgated a revised 8-hour ozone standard of 0.08 ppm on July 18, 1997. *See* 62 FR 38856. Subsequently, on March 27, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 ppm to provide increased protection of public health and the environment. *See* 73 FR 16435. The 2008 ozone NAAQS retain the same general form and averaging time as the 0.08 ppm NAAQS set in 1997 but are set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS are attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15. On October 26, 2015 (80 FR 65292), EPA published a final rule lowering the level of the 8-hour ozone NAAQS to 0.070 ppm and retaining the same form and averaging time.

On April 30, 2004, EPA initially designated Mecklenburg County as nonattainment for the 1997 8-hour ozone standard as part of the Charlotte-Rock Hill, NC-SC area. *See* 69 FR 23858. EPA redesignated the North Carolina portion of the Charlotte-Rock Hill NC-SC area to attainment on December 2, 2013, for the 1997 8-hour ozone standard.²¹ *See* 78 FR 72036.

²¹ As part of that action, EPA also approved the State's maintenance plan for the 1997 8-hour ozone NAAQS. The transportation facilities rules were not part of that maintenance plan.

Subsequently, on May 21, 2012, EPA also initially designated Mecklenburg County as nonattainment for the 2008 ozone standard as part of the Charlotte-Rock Hill, NC-SC area. *See* 77 FR 30088. EPA redesignated the North Carolina portion of the Charlotte-Rock Hill, NC-SC area to attainment on July 28, 2015, for the 2008 ozone standard.²² *See* 80 FR 44873. EPA designated the entire state of North Carolina (including Mecklenburg County) as attainment/unclassifiable for the 2015 ozone standard on November 16, 2017. *See* 82 FR 54232. Currently, Mecklenburg County is designated as attainment or attainment/unclassifiable for all ozone NAAQS. *See* 40 CFR 81.334. The 2018-2020 regional design value for the 2015 ozone standard is 0.067 ppm.

4. *PM_{2.5} NAAQS*²³

Over the course of several years, EPA has reviewed and revised the PM_{2.5} NAAQS several times. On July 18, 1997 (62 FR 38652), EPA established an annual PM_{2.5} NAAQS of 15.0 µg/m³, and on January 5, 2005 (70 FR 943), designated Mecklenburg County as unclassifiable/attainment for the 1997 annual PM_{2.5} NAAQS. On September 21, 2006 (71 FR 61144), EPA retained the 1997 annual PM_{2.5} NAAQS of 15.0 µg/m³ but revised the 24-hour PM_{2.5} NAAQS from 65 µg/m³ to 35 µg/m³. On November 13, 2009, EPA designated Mecklenburg County as unclassifiable/attainment for the 24-hour PM_{2.5} NAAQS. *See* 74 FR 58688. On August 24, 2016, EPA took final action to revoke the 1997 annual PM_{2.5} NAAQS for areas designated attainment or in maintenance for the standard. *See* 81 FR 58010.

On December 14, 2012, EPA strengthened the annual primary PM_{2.5} NAAQS from 15.0 µg/m³ to 12.0 µg/m³. *See* 78 FR 3086. EPA designated Mecklenburg County as unclassifiable/attainment for the 2012 annual PM_{2.5} NAAQS. *See* 80 FR 2206 (January 15, 2015). The regional design value for 2018-2020 for the 2012 PM_{2.5} annual standard is 8.9

²² As part of that action, EPA also approved the State's maintenance plan for the 2008 8-hour ozone NAAQS. The transportation facilities rules were not part of that maintenance plan.

²³ *See* footnote 18 of this Notice of Proposed Rulemaking.

µg/m³, and the 2018-2020 regional design value for the 2006 PM_{2.5} 24-hour standard is 17 µg/m³.²⁴

C. *Summary of Proposed Conclusions*

EPA proposes to find that removal of the transportation facilities rules from the Mecklenburg LIP would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act, because, as discussed above, transportation facilities rules are no longer federally required, Mecklenburg County issues few transportation facility permits, the issued permits do not require emissions controls, and the relevant NAAQS are not threatened.

III. *Incorporation by Reference*

In this document, EPA is proposing to amend regulatory text that includes incorporation by reference. EPA is proposing to remove the following MCAPCO rules in Article 2.0000 – Air Pollution Control Regulations and Procedures, Section 2.0800 – *Transportation Facilities*: Rules 2.0801 – *Purpose and Scope*; 2.0802 – *Definitions*; 2.0803 – *Highway Projects*; and 2.0804 – *Airport Facilities* from the Mecklenburg County portion of the North Carolina SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made and will continue to make the SIP generally available at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. *Proposed Action*

EPA is proposing to approve the removal of the transportation facilities rules from the Mecklenburg LIP because the removal is consistent with the CAA and the North Carolina regulatory portion of the SIP.

²⁴ Based on the science and technology associated with on-road motor vehicles, EPA would not expect any change (increase or decrease) in PM emissions resulting from the removal of the transportation facilities rules from the Mecklenburg LIP. Furthermore, EPA would not expect any increase in emissions of PM_{2.5} as a result of the precursors (i.e., nitrogen oxides, SO₂, ammonia and VOC). PM formation in the Southeast (including North Carolina) is dominated by sulfates and, as discussed in footnote 17, the amount of SO₂ emitted from on-road vehicles is low.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. This proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 21, 2021.

John Blevins,

Acting Regional Administrator,

Region 4.

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